

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

BRUNO FLEMING,
Plaintiff,
v.
PROVEST CALIFORNIA LLC, et al.,
Defendants.

Case No. 21-cv-04462-BLF

**ORDER DENYING MOTION FOR
RELIEF FROM NONDISPOSITIVE
PRETRIAL ORDER OF MAGISTRATE
JUDGE**

[Re: ECF No. 49]

Before the Court is Plaintiff Bruno Fleming’s Motion for Relief from Nondispositive Pretrial Order of Magistrate Judge, pursuant to Federal Rule of Civil Procedure 72 and Local Civil Rule 72-2. *See* ECF No. 49. Plaintiff requests that the Court modify portions of Judge van Keulen’s Order concerning Interrogatory Nos. 14-16 and Requests for Production Nos. 1, 4, 6-8, and 14-20. *Id.* at 2.

A magistrate judge's nondispositive pretrial order may be modified or set aside if it is "clearly erroneous or is contrary to law." Fed. R. Civ. P. 72(a). "The magistrate's factual determinations are reviewed for clear error, and the magistrate's legal conclusions are reviewed to determine whether they are contrary to law." *Perry v. Schwarzenegger*, 268 F.R.D. 344, 348 (N.D. Cal. 2010).

Having reviewed the briefing and Judge van Keulen’s Order, the Court finds no factual determination that is clearly erroneous and no legal conclusion that is contrary to law. Nor has Plaintiff attempted to identify any. Plaintiff instead seeks a new opportunity to argue propriety of its discovery requests. But the “clearly erroneous and contrary to law” standard is deferential—the district judge may not simply substitute his or her judgment for that of the magistrate judge. *Grimes v. City & Cnty. of S.F.*, 951 F.2d 236, 241 (9th Cir. 1991). Accordingly, the Court DENIES Plaintiff’s motion.

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2 **IT IS SO ORDERED.**

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4 Dated: September 1, 2022

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United States District Court
Northern District of California



BETH LABSON FREEMAN
United States District Judge